

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMI L. CANTORE, State Bar No. 165410
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2569
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7 **BEFORE THE**
8 **BOARD OF PHARMACY**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 RUBIN BRYANT, JR.
1725 1/4 Wilcox Ave.
Los Angeles, CA 90028

13 Pharmacy Technician No. Registration TCH
12034

14 Respondent.

Case No. 2618

OAH No. L2004100558

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 **PARTIES**

20 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
21 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
22 by Bill Lockyer, Attorney General of the State of California, by Jami L. Cantore, Deputy Attorney
23 General.

24 2. Rubin Bryant, Jr. (Respondent) is representing himself in this proceeding
25 and has chosen not to exercise his right to be represented by counsel.

26 3. On or about March 3, 1994, the Board of Pharmacy issued Pharmacy
27 Technician No. Registration TCH 12034 to Rubin Bryant, Jr. The Technician Registration was in
28 full force and effect at all times relevant to the charges brought in Accusation No. 2618 and will

1 expire on March 31, 2006, unless renewed.

2 JURISDICTION

3 4. Accusation No. 2618 was filed before the Board of Pharmacy (Board),
4 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
5 and all other statutorily required documents were properly served on Respondent on October 29,
6 2003. Respondent failed to file a timely Notice of Defense contesting the Accusation, and a
7 default was entered on March 26, 2004. On or about May 5, 2004, the Board of Pharmacy
8 granted Respondent's request to vacate the default decision and set aside the default. A copy of
9 Accusation No. 2618 is attached as Exhibit A and incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, and understands the charges and allegations
12 in Accusation No. 2618. Respondent also has carefully read, and understands the effects of this
13 Stipulated Surrender of License and Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the
15 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
16 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;
17 the right to present evidence and to testify on his own behalf; the right to the issuance of
18 subpoenas to compel the attendance of witnesses and the production of documents; the right to
19 reconsideration and court review of an adverse decision; and all other rights accorded by the
20 California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
22 each and every right set forth above.

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in
25 Accusation No. 2618, agrees that cause exists for discipline and hereby surrenders his Pharmacy
26 Technician Registration No. TCH 12034 for the Board's formal acceptance.

27 9. Respondent understands that by signing this stipulation he enables the
28 Board to issue an order accepting the surrender of his Pharmacy Technician Registration without

1 further process.

2 RESERVATION

3 10. The admissions made by Respondent herein are only for the purposes of
4 this proceeding, or any other proceedings in which the Board of Pharmacy or other professional
5 licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

6 CONTINGENCY

7 11. This stipulation shall be subject to approval by the Board of Pharmacy.
8 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
9 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,
10 without notice to or participation by Respondent. By signing the stipulation, Respondent
11 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
12 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
13 as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or
14 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
15 and the Board shall not be disqualified from further action by having considered this matter.

16 12. The parties understand and agree that facsimile copies of this Stipulated
17 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
18 and effect as the originals.

19 13. In consideration of the foregoing admissions and stipulations, the parties
20 agree that the Board may, without further notice or formal proceeding, issue and enter the
21 following Order:

22 ORDER

23 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH
24 12034, issued to Respondent Rubin Bryant, Jr. is surrendered and accepted by the Board of
25 Pharmacy.

26 14. The surrender of Respondent's Pharmacy Technician Registration and the
27 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
28 against Respondent. This stipulation constitutes a record of the discipline and shall become a part

1 of Respondent's license history with the Board.

2 15. Respondent shall lose all rights and privileges as a pharmacy technician in
3 California as of the effective date of the Board's Decision and Order.

4 16. Respondent shall cause to be delivered to the Board both his Technician
5 wall and pocket certificates on or before the effective date of the Decision and Order.

6 17. Respondent understands and agrees that if he ever applies for licensure or
7 petitions for reinstatement in the State of California, the Board shall treat it as a new application
8 for licensure. Respondent must comply with all the laws, regulations and procedures for licensure
9 in effect at the time the application or petition is filed, and all of the charges and allegations
10 contained in Accusation No. 2618 shall be deemed to be true, correct, and admitted by
11 Respondent when the Board determines whether to grant or deny the application or petition.

12 18. Should Respondent ever apply or reapply for a new license or certification,
13 or petition for reinstatement of a license, by any other health care licensing agency in the State of
14 California, all of the charges and allegations contained in Accusation, No. 2618 shall be deemed
15 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
16 other proceeding seeking to deny or restrict licensure.

17 19. Respondent shall pay the Board its costs of investigation and enforcement
18 in the amount of \$6,000.00 prior to issuance of a new or reinstated license.

19 20. Respondent shall not apply or reapply for a new license or certification for
20 three (3) years from the effective date of the Board of Pharmacy's Decision and Order.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: May 12, 2005~~I hereby certify that the foregoing is a true and correct copy of the original as filed with the Board of Pharmacy.~~~~I hereby certify that the foregoing is a true and correct copy of the original as filed with the Board of Pharmacy.~~~~I hereby certify that the foregoing is a true and correct copy of the original as filed with the Board of Pharmacy.~~

RUBIN BRYANT, JR.
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 5/12/05

BILL LOCKYER, Attorney General
of the State of California

Jamil L. Cantore
JAMIL L. CANTORE
Deputy Attorney General

Attorneys for Complainant

DOJ Docket Number/Miller ID: 93583110-LA2003AD0422

50037383.wpd

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

RUBIN BRYANT, JR.
1725 1/4 Wilcox Ave.
Los Angeles, CA 90028

Pharmacy Technician No. Registration TCH
12034

Respondent.

Case No. 2618

OAH No. L2004100558

DECISION AND ORDER

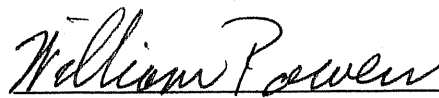
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 20, 2005.

It is so ORDERED June 20, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS
Board Vice President

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2618

RUBIN BRYANT, Jr.
1725 ¼ Wilcox Ave
Los Angeles CA 90028

Pharmacy Technician Registration
No. TCH 12034

Respondent,

STAY ORDER

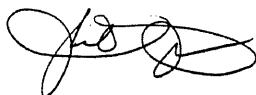
Pursuant to Government Code section 11519, subdivision (b), a stay of execution of the Board of Pharmacy's decision dated March 26, 2004 is hereby ordered until May 5, 2004.

The effective date of the decision in this matter is stayed to permit the board to consider Respondent's written motion to vacate the decision in Case No. 2618.

It is so ORDERED on April 23, 2004.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

1
2
3
4
5
6 **BEFORE THE**
7 **BOARD OF PHARMACY**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2618

11 RUBIN BRYANT, JR.
12 1725 1/4 Wilcox Ave.
13 Los Angeles, CA 90028

14 Pharmacy Technician Registration
No. TCH 12034

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

Respondent.

15 FINDINGS OF FACT

16 1. On or about October 22, 2003, Complainant Patricia F. Harris, in her
17 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
18 Affairs, filed Accusation No. 2618 against Respondent Rubin Bryant, Jr. before the Board of
19 Pharmacy.

20 2. On or about March 3, 1994, the Board of Pharmacy issued Original
21 Pharmacy Technician Registration No. TCH 12034 to Respondent Rubin Bryant, Jr. The
22 Original Pharmacy Technician Registration No. TCH 12034 will expire on March 31, 2004,
23 unless renewed.

24 3. On or about October 29, 2003, Maria-Elena Hernandez, an employee of
25 the Office of the Attorney General, served by Certified and First Class Mail a copy of the
26 Accusation No. 2618, Statement to Respondent, Notice of Defense, Request for Discovery, and
27 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent Rubin Bryant, Jr.'s
28 address of record with the Board, which was and is 1725 1/4 Wilcox Ave., Los Angeles, CA

1 90028. A copy of the Accusation is attached as Exhibit A, and is incorporated herein by
2 reference.

3 4. Service of the Accusation was effective as a matter of law under the
4 provisions of Government Code section 11505, subdivision (c).

5 5. On or about November 19, 2003, the aforementioned documents were
6 returned by the U.S. Postal Service marked "Unclaimed."

7 6. Government Code section 11506 states, in pertinent part:

8 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
9 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
10 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
11 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

12 7. Respondent Rubin Bryant, Jr. failed to file a Notice of Defense within 15
13 days after service upon him of the Accusation, and therefore waived his right to a hearing on the
14 merits of Accusation No. 2618.

15 8. California Government Code section 11520 states, in pertinent part:

16 "(a) If the respondent either fails to file a notice of defense or to appear at the
17 hearing, the agency may take action based upon the respondent's express admissions or upon
18 other evidence and affidavits may be used as evidence without any notice to respondent."

19 9. Pursuant to its authority under Government Code section 11520, the Board
20 finds Respondent Rubin Bryant, Jr. is in default. The Board will take action without further
21 hearing and, based on Respondent's express admissions by way of default and the evidence
22 before it, contained in Exhibit A, finds that the allegations in Accusation No. 2618 are true.

23 10. The total costs for investigation and enforcement are \$1,867.50 as of
24 December 30, 2003.

25 ///

26 ///

27 ///

28 ///

DETERMINATION OF ISSUES

1
2 1. Based on the foregoing findings of fact, Respondent Rubin Bryant, Jr. has
3 subjected his Original Pharmacy Technician Registration No. TCH 12034 to discipline.

4 2. A copy of the Accusation is attached.

5 3. The agency has jurisdiction to adjudicate this case by default.

6 4. The California Board of Pharmacy is authorized to revoke Respondent's
7 Original Pharmacy Technician Registration based upon the following violations alleged in the
8 Accusation:

9 a. Business and Professions Code sections 4300 and 4301, subdivision (f),
10 for dishonesty in the practice of pharmacy by the unlawful appropriation of controlled
11 substances.

12 b. Business and Professions Code section 4060, for unlawful possession of a
13 controlled substance.

14 c. Business and Professions Code sections 4300 and 4301, for unprofessional
15 conduct in the practice of pharmacy by violating California Code of Regulations, title 16, section
16 1770.

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **DECISION AND ORDER**

2 IT IS SO ORDERED that Original Pharmacy Technician Registration No. TCH
3 12034, heretofore issued to Respondent Rubin Bryant, Jr., is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent Rubin
5 Bryant, Jr. may serve a written motion requesting that the Decision be vacated and stating the
6 grounds relied on within seven (7) days after service of the Decision on Respondent. The agency
7 in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as
8 defined in the statute.

9 This Decision shall become effective on April 25, 2004.

10 It is so ORDERED March 26, 2004.

11 BOARD OF PHARMACY
12 DEPARTMENT OF CONSUMER AFFAIRS
13 STATE OF CALIFORNIA

14 By

15 
16 JOHN D. JONES
Board President

17 Attachments:

18 Exhibit A: Accusation No.2618
19
20
21
22
23
24
25
26
27
28

Exhibit A

Accusation No. 2618

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMI L. CANTORE, State Bar No. 165410
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2569
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2618

11 RUBIN BRYANT, JR.
1725 1/4 Wilcox Ave.
12 Los Angeles, CA 90028

A C C U S A T I O N

13 Pharmacy Technician Registration
No. TCH 12034

14 Respondent.
15

16
17 Complainant alleges:

18 PARTIES

19 1. Patricia F. Harris (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
21 Affairs.

22 2. On or about March 3, 1994, the Board of Pharmacy issued Pharmacy
23 Technician Registration No. TCH 12034 to Rubin Bryant, Jr. (Respondent). The pharmacy
24 technician registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on March 31, 2004, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board of Pharmacy (Board),
28 Department of Consumer Affairs, under the authority of the following laws.

1 4. Business and Professions Code section 4300, subdivision (a) states:
2 "Every license issued may be suspended or revoked."

3 5. Business and Professions Code section 4301 states, in pertinent part:
4 "The board shall take action against any holder of a license who is guilty of
5 unprofessional conduct or whose license has been procured by fraud or misrepresentation or
6 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the
7 following:

8
9 "(f) The commission of any act involving moral turpitude, dishonesty, fraud,
10 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
11 otherwise, and whether the act is a felony or misdemeanor or not.

12
13 "(j) The violation of any of the statutes of this state or of the United States
14 regulating controlled substances and dangerous drugs."

15 6. Business and Professions Code section 4060 states, in pertinent part:
16 "No person shall possess any controlled substance, except that furnished to a
17 person upon the prescription of a physician, dentist, podiatrist, or veterinarian."

18 7. Health and Safety Code section 11377, subdivision (a), states:
19 "Except as authorized by law and as otherwise provided in subdivision (b) or
20 Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the
21 Business and Professions Code, every person who possesses any controlled substance which is
22 (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in
23 subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d),
24 (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2)
25 or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section
26 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to
27 practice in this state, shall be punished by imprisonment in a county jail for a period of not more
28 than one year or in the state prison."

1 8. California Code of Regulations, title 16, section 1770, states:

2 "For the purpose of denial, suspension, or revocation of a personal or facility
3 license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions
4 Code, a crime or act shall be considered substantially related to the qualifications, functions or
5 duties of a licensee or registrant if to a substantial degree it evidences present or potential
6 unfitness of a licensee or registrant to perform the functions authorized by his license or
7 registration in a manner consistent with the public health, safety, or welfare."

8 9. Business and Professions Code section 118, subdivision (b) states:

9 "The suspension, expiration, or forfeiture by operation of law of a license issued
10 by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or
11 by order of a court of law, or its surrender without the written consent of the board, shall not,
12 during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board
13 of its authority to institute or continue a disciplinary proceeding against the licensee upon any
14 ground provided by law or to enter an order suspending or revoking the license or otherwise
15 taking disciplinary action against the licensee on any such ground."

16 10. Section 125.3, subdivision (a), states, in pertinent part:

17 "Except as otherwise provided by law, in any order issued in resolution of a
18 disciplinary proceeding before any board within the department . . . the board may request the
19 administrative law judge to direct a licentiate found to have committed a violation or violations
20 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case."

22 11. CONTROLLED SUBSTANCES

23 A. "Nandrolone Deconoate" is the generic name for Deca-Durabolin. It is a
24 Schedule III controlled substance, as defined by Health and Safety Code section 11056 and is
25 categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

26 B. "Testosterone Cypionate" is the generic name for Depo-Testosterone. It is
27 Schedule III controlled substance, as defined by Health and Safety Code section 11056 and is
28 categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

1 FIRST CAUSE FOR DISCIPLINE

2 (Dishonest Acts)

3 12. Respondent is subject to disciplinary action under Business and
4 Professions Code section 4300 and section 4301, subdivision (f), for unprofessional conduct, in
5 that from approximately January 2002 to on or about June 24, 2002, specific dates unknown,
6 while on duty as a registered pharmacy technician at Kaiser Permanente Pharmacy #014, Los
7 Angeles, California, Respondent, by his own admission, unlawfully appropriated approximately
8 two (2) vials of Depo-Testosterone (a Schedule III controlled substance) at 10 milliliters per vial,
9 and approximately four (4) vials of Deca-Durabolin (a Schedule III Controlled Substance) at 2
10 milliliters per vial.

11 SECOND CAUSE FOR DISCIPLINE

12 (Unlawful Possession of a Controlled Substance)

13 13. Respondent is subject to disciplinary action under Business and
14 Professions Code section 4300 and section 4301, subdivision (j), for violating Business and
15 Professions code section 4060 and Health and Safety Code section 11350, subdivision (a), in that
16 from approximately January 2002 to on or about June 24, 2002, specific dates unknown, while
17 on duty as a registered pharmacy technician at Kaiser Permanente Pharmacy #014, Los Angeles,
18 California, Respondent, by his own admission, unlawfully possessed Depo-Testosterone and
19 Deca-Durabolin, (Schedule III controlled substances).

20 THIRD CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct)

22 14. Respondent is subject to disciplinary action under Business and
23 Professions Code sections 4300 and 4301, on the grounds of unprofessional conduct for violating
24 California Code of Regulations, title 16, section 1770, as more fully set forth in paragraphs 12
25 and 13, above.

26 ///

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9

2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4

- 4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4

0
1
2
3
4
5
6
7
8
9
20
21
22
23
24

2
3
4
5
6
7
8
9
20
21
22
23
24